

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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TANYA GIULIANO,

Plaintiff,

vs.

BJ'S WHOLESALE CLUB, INC. and BJ'S  
WHOLESALE CLUB HOLDINGS, INC.,

Defendants.

: CIVIL ACTION  
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: JURY TRIAL DEMANDED  
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**NOTICE FOR REMOVAL OF ACTION**  
**PURSUANT TO 28 U.S.C. § 1441**

Defendants, BJ's Wholesale Club, Inc. and BJ's Wholesale Club Holdings, Inc., hereby submit notice to the United States District Court for the Southern District of New York for the removal of the above entitled action to this Honorable Court and, in support thereof, respectfully represents:

1. Defendants, BJ's Wholesale Club, Inc. (the "Club") and BJ's Wholesale Club Holdings, Inc. ("BWCH"), are both corporations organized and existing under the laws of the State of Delaware, having their principal places of business located in the Commonwealth of Massachusetts.

2. Upon information, knowledge and belief, Plaintiff, Tanya Giuliano, is an adult individual and citizen and resident of the State of New York, residing in the Town of Yorktown, County of Westchester.

3. At all times material hereto, the Club and BWCH were duly registered to do, and were doing, business in the State of New York.

4. On or about March 3, 2021, Plaintiff commenced the above action, by filing a Summons and Complaint (collectively, the “Complaint”), true and correct copies of which are attached hereto as **Exhibit “A.”** Plaintiff seeks damages against the Club and BWCH for personal injuries she allegedly sustained in a slip and fall accident occurring at the Club located at 3303 Crompond Road, Yorktown, New York 10598 on October 22, 2020. Plaintiff’s Summons states that Plaintiff resides at 2398 Trelawn Street, Yorktown Heights, New York 10598 and the Complaint states that Plaintiff resides in Westchester County.

5. At the time the action was filed, neither the Club nor BWCH had notice that the value of Plaintiff’s claims exceeded Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

6. On or about April 7, 2021, the Club and BWCH received the Complaint.

7. On May 4, 2021, the Club and BWCH filed their Answer to the Complaint. A true and correct copy of the Answer is attached hereto as **Exhibit “B.”**

8. On May 4, 2021, the Club and BWCH filed and served a Notice to Admit, seeking for Plaintiff to admit or deny whether she alleges that her damages, if proven at trial, are in excess of Seventy-Five Thousand (\$75,000.00) dollars, exclusive of interest and costs. A copy of the Club’s and BWCH’s Notice to Admit is attached hereto as **Exhibit “C.”**

9. To date, Plaintiff has failed to respond to the Notice to Admit. As a result, by failing to respond within the twenty (20) day time period prescribed by Section 3123 of the New York Civil Practice Law and Rules (“CPLR”), all allegations contained therein are deemed admitted by operation of law. See CPLR § 3123.

10. Diversity of citizenship exists between Plaintiff, a citizen and resident of the State of New York, and the Club and BWCH, corporations organized and existing under the laws of the

State of Delaware and having their principal places of business in the Commonwealth of Massachusetts.

11. Complete diversity of citizenship exists between the parties and removal is proper pursuant to 28 U.S.C. § 1441, *et seq.*

12. 28 U.S.C. § 1446(b) reads, in pertinent part, that:

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 [diversity of citizenship] of this title more than 1 year after commencement of the action.

13. This Notice of Removal is timely under 28 U.S.C. § 1446(b) as it is filed within thirty (30) days after the Club's and BWHC's first notice that Plaintiff's claimed damages, if proven, are valued in excess of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs. Moreover, this Notice of Removal is made within one (1) year after the filing of the Complaint on March 3, 2021.

**WHEREFORE**, the above action now pending against Defendants, BJ's Wholesale Club, Inc. and BJ's Wholesale Club Holdings, Inc., in the Supreme Court State of New York, Westchester County, is removed therefrom to this Honorable Court.

Dated: New York, New York  
June 3, 2021

**Respectfully submitted,**

**CHARTWELL LAW**

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